IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 38 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHIPAT DAGDU CHHAPALE AND OTHERS
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR MANOJ N POPAT for the Petitioners
Mr Amit Patel, Assistant Government Pleader for Respondents

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 08/12/2006

ORAL JUDGMENT

By filing this petition the petitioners have prayed that the orders at Annexures A and B may be quashed and set aside. The petitioners were

occupying the quarters allotted to them by the Government. The petitioners were serving in the Home Department as Police Constables/Chowkidars. In spite of the fact that they were transferred, they had not vacated the quarters and they were staying in the said quarters. The Competent Officer and Deputy Collector, Jamnagar by his order dated 29th August 1992 came to the conclusion that the petitioners are unauthorisedly occupying the quarters and the petitioners were asked to vacate the said quarters within a stipulated period. The said order was challenged by the petitioners under the Gujarat Public Premises (Unauthorised Occupants) Act, 1972 by filing appeals. The said appeals were also dismissed by the appellate Judge against which this Special Civil Application is filed.

The learned Single Judge of this Court had admitted the matter and granted interim relief. It is pointed out by Mr Manoj Popat that the petitioners had already vacated the quarters on different dates between 1995 and 1999. Admittedly, all these petitioners have vacated the quarters during the pendency of this petition. Mr Popat submitted that the petitioners were lowly paid employees and since they have already vacated the quarters the Government should waive charging of market rent. It is submitted by Mr Popat that only economic rent should be charged from the petitioners.

Mr Amit Patel, learned Assistant Government Pleader on the other hand submitted that during the relevant period if the petitioners were in unauthorised occupation, the petitioners are required to pay market rent. In my view, since the petitioners have already vacated the quarters since long, it would be just and proper to direct the petitioners to make representation to the Government in the matter for granting them concession in the payment of market rent. If any amount is already

deducted from the salary towards market rent, without refunding the same at least for future market rent appropriate authority may take sympathetic view looking to the fact that the petitioners are lowly paid employees. The petitioners are accordingly permitted to make a representation within two months from today requesting the Government to charge economic rent instead of market rent. If any such representation is made, the authority may take appropriate decision in accordance with law within a period of two months from the date of receipt of such representation. Till such representation is decided, no coercive measures would be taken to recover the amount. If the ultimate decision taken is against the petitioners, it will be open for the petitioners to challenge the same in accordance with law.

Subject to the above directions, petition is dismissed. Rule is discharged.

(P.B.MAJMUDAR, J.)

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